

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

v.

GARY F. HUMENYI,

Defendant.

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**DECISION AND ORDER  
13-CR-96S**

1. On December 16, 2013, the Defendant pled guilty to Counts 1 through 5 of the Indictment (Docket No. 7) charging Count 1 violations of Title 21 USC § 841(a)(1) and 841(b)(1)(C) (possession with intent to distribute and distribution of Fentanyl and Oxycodone); Count 2 violations of Title 21 USC § 841(a)(1) and 841(b)(1)(C) (possession with intent to distribute and distribution of Fentanyl); Count 3 violations of Title 21 USC § 841(a)(1) and 841(b)(1)(C) (possession with intent to distribute and distribution of Fentanyl and Hydromorphone); Count 4 violations of Title 21 USC § 841(a)(1) and 841(b)(1)(C) (possession with intent to distribute and distribution of Fentanyl), and Count 5 violations of Title 21 USC § 841(a)(1) and 841(b)(1)(C) (possession with intent to distribute and distribution of Fentanyl and Heroin).

2. On December 16, 2013, the Honorable Leslie G. Foschio, United States Magistrate Judge, filed a Report and Recommendation (Docket No. 23) recommending that Defendant's plea of guilty be accepted and the Defendant adjudicated guilty.

3. This Court has not received objections to the Report and Recommendation in accordance with 28 U.S.C. §636(b)(1) and Local Rule 59(b).

4. This Court has carefully reviewed *de novo* Judge Foschio's December 16, 2013, Report and Recommendation, the Government's Calculation of Maximum Sentence and Sentencing Guideline Range, the Indictment and the applicable law. Upon due consideration, this Court finds no legal or factual error in Judge Foschio's Report and Recommendation, and will accept Judge Foschio's recommendation that Defendant's plea of guilty be accepted and that the Defendant be adjudicated guilty as charged.

IT HEREBY IS ORDERED, that this Court accepts Judge Foschio's December 16, 2013, Report and Recommendation (Docket No. 23) in its entirety, including the authorities cited and the reasons given therein.

FURTHER, that the plea of guilty of Defendant Gary F. Humenyi is accepted, and he is now adjudged guilty of Title 21 U.S.C. § 841(a)(1) and 841(b)(1)(C), as to all 5 counts.

SO ORDERED.

Dated: January 6, 2014  
Buffalo, New York

s/William M. Skretny  
WILLIAM M. SKRETNY  
Chief Judge  
United States District Court